

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

LOURDES ROLON,
Plaintiff

v.

CIVIL NO. 05-1988(DRD)

RAFAEL ROSARIO,
& ASSOCIATES, INC., et al.,
Defendants

MOTION	ORDER
<p>Date Filed: 10/12/05 <u>Docket #6</u> <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant Title: Motion to Dismiss the Complaint Pursuant to Rule 12(b)(1) and (6) of the Federal Rules of Civil Procedure</p>	<p>DENIED WITHOUT PREJUDICE. Plaintiff has filed an Amended Complaint at Docket No. 12. The Court notes that Rule 15(a) provides that “leave shall be freely given when justice so requires”. <u>Foman v. Davis</u>, 371 U.S. 178, 182 (1962). It is well known that amendments to correct deficiency in pleadings should be freely given when justice so requires, particularly where actions arises under Civil Rights Act. <u>Gaffney v. Silk</u>, 488 F.2d 1248, 1251 (1st Cir. 1973). Further, if the amended complaint would state a valid cause of action, a motion to amend should normally be granted. <u>Id.</u> Normally, the most frequent reason for denying leave to amend is that the party opposing the amendment will be prejudiced if the pleadings amendment is granted. 6 Wright, Miller & Kane, <u>Federal Practice and Procedure</u>: Civil 2d § 1487, (1990), p. 613. (Citations omitted). “In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.— the leave sought should, as the rule require, be ‘freely given’”. <u>Foman v. Davis</u>, 371 U.S. at 182. Because the record is devoid of any apparent or declared reason of prejudice by the defendant, the Amended Complaint shall be granted and the instant motion to dismiss shall be resubmitted.</p>

Date Filed: 11/29/05 Docket # 13 <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant Title: Motion for Extension of Time to File A Reply	MOOT. See ruling at Docket No. 6. Further, defendant is granted until December 16, 2005 to file its responsive pleading to the Amended Complaint.
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IT IS SO ORDERED.

In San Juan, Puerto Rico this 14th day of December 2005.

S/DANIEL R. DOMINGUEZ
DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE